

REMARKS/ARGUMENTS

The Office Action mailed March 28, 2007 has been received and carefully considered. By this amendment, claims 1, 43, 73, and 77 are amended and claim 78 is canceled. No new matter has been added. Thus, claims 1, 2, 4, 6, 7, 9, 12-23, 25, 46-52, and 73-77 are now pending in the application.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 4, 6, 7, 9, 12-23, 25, 46-52, and 73-77 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,663,831 to Konecke. First, Applicants' respectfully submit that the Examiner has offered an inconsistent reading of Konecke. Initially, the Examiner explains that "the claimed 'retaining portion' has been read on the roller heads (70, 70A) that have a first size and a second size." (See Office Action, page 2, lines 20-22, emphasis added.) Additionally, the Examiner asserts that the "claimed 'expandable collector member' has been read on the absorbent material (100)." (See Office Action, page 2, lines 22-23.) However, contradicting his initial assertions, the Examiner subsequently argues that Konecke teaches a retaining portion that has an extended size and a contracted size as recited in the claims, because the reference teaches that "absorbent material (100) swells to a first size when filled with sample and a second size when the sample is squeezed out." (See Office Action, page 3, lines 12-15, emphasis added.) Moreover, the Examiner argues that Konecke teaches a discharge portion spaced from the retaining portion as recited in the claims, because the reference "teaches absorbent [material] (100) spaced from the discharge portion (80)." (See Office Action, page 4, lines 1-3, emphasis added.) Thus, in one argument the Examiner asserts that the retaining portion recited in the claims corresponds to the roller heads (70, 70A), but the Examiner later asserts in other arguments that the retaining portion corresponds to the absorbent material (100). As such, the Examiner has failed to establish that Konecke discloses, or suggests, an element that corresponds to a "retaining portion" with all the limitations recited in the claims.

In particular, independent claims 1 and 73 now recite "a retaining portion having a retaining portion first end operably connected to a retaining portion second end, the retaining portion first end being coupled to the holding portion second end and the retaining portion second end being movable relative to the holding portion second end, the retaining portion having at least an extended size and a contracted size, the sizes being defined by a configurable

distance between the retaining portion second end and the holding portion first end.” Similarly, independent claim 46 now recites “a retaining portion having a retaining portion first end operably connected to a retaining portion second end, the retaining portion first end being coupled to the holding portion second end and the retaining portion second end being movable relative to the holding portion second end, the retaining portion having at least an extended size and a sample retaining size, the sample retaining size being smaller than the extended size, the sizes being defined by a configurable distance between the retaining portion second end and the holding portion second end.” Whether the roller heads or the absorbent material of Konecke are considered to be a “retaining portion,” the cited reference provides insufficient basis for the rejection.

As discussed previously, the Examiner asserts initially that the roller heads in Konecke with a first size 70 and a second size 70A correspond to the retaining portion recited in independent claims 1, 46, and 73. However, the roller heads fail to have at least two sizes as required by the claims. If the Examiner asserts that each roller head is a retaining portion, FIG. 6A shows that each roller head has a single unchanging size, and not two sizes. On the other hand, if the Examiner asserts that all the roller heads make up the retaining portion, FIG. 6A shows that the combination of the roller heads also has a single unchanging size. In other words, even if the roller heads may have different sizes, their sizes do not change, so the size of the combination does not change. Additionally, FIG. 6A of Konecke clearly shows that the different sizes for the roller heads are not “defined by a configurable distance between the retaining portion second end and the holding portion first end” as recited in the claims. Therefore, the roller heads of Konecke fail to possess every limitation of the retaining portion recited in claims 1, 46, and 73.

Alternatively, the Examiner also appears to suggest that the absorbent material 100 in Konecke may correspond to the retaining portion. However, if the absorbent material 100 is, indeed, a “retaining portion,” Konecke fails to disclose a separate element that corresponds to the “expandable collector member” which is “disposed on the retaining portion” with specific structural relationships recited in the claims.

Accordingly, even when all the different interpretations of Konecke suggested by the Examiner are considered, Konecke fails to teach, or even suggest, each and every element recited by independent claims 1, 46, and 73. As such, withdrawal of the rejection of claims 1, 46, and 73 is in order and is respectfully requested. Furthermore, Applicants respectfully

submit that dependent claims 2, 4, 6, 7, 9, 12-23, 25, 47-52, and 74-77 are allowable based at least on their dependency on allowable base claims 1, 46, and 73.

In addition, independent claim 77 has been amended to include the limitations of dependent claim 78. The Examiner indicates that claim 78 contains allowable subject matter. (See Office Action, page 3, lines 1-3.) Therefore, because claim 77 now includes this allowable subject matter, withdrawal of the rejection of claim 77 is in order and is respectfully requested.

Allowable Subject Matter

Claim 78 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the cancellation of claim 78, the objection has been rendered moot, and withdrawal of the objection is respectfully requested. As discussed above, the allowable subject matter of dependent claim 78 has been incorporated into amended independent claim 77.

In view of the foregoing, the present application is now believed to be in condition for allowance. However, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicants' representative, then the Examiner is invited to contact the undersigned by telephone in order that further prosecution of this application can thereby be expedited.

Respectfully submitted,

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